

AMENDED IN SENATE AUGUST 6, 2014

AMENDED IN SENATE JUNE 9, 2014

AMENDED IN SENATE JUNE 2, 2014

AMENDED IN ASSEMBLY APRIL 21, 2014

AMENDED IN ASSEMBLY APRIL 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 2018**

---

**Introduced by Assembly Member Bocanegra**

February 20, 2014

---

An act to amend ~~Sections~~ *Section* 10159.5 and 10165 of, and to add Sections 10159.6 and 10159.7 to, the Business and Professions Code, relating to real estate licensees.

### LEGISLATIVE COUNSEL’S DIGEST

AB 2018, as amended, Bocanegra. Real estate licensees: fictitious business names.

Existing law provides for the licensure and regulation of real estate brokers and real estate salespersons by the Bureau of Real Estate headed by the Real Estate Commissioner. Existing law requires an applicant who desires to have his or her license issued under a fictitious business name to file with his or her application a certified copy of his or her fictitious business name statement. Under existing law, any violation of these provisions is a misdemeanor. ~~Existing law also authorizes the commissioner to temporarily suspend or permanently revoke the license of a real estate licensee for violation of any specified provisions, including, but not limited to, a requirement that a real estate broker~~

~~immediately notify the commissioner when he or she employs, or terminates the employment of, a real estate salesperson.~~

This bill would authorize a ~~supervising~~ *responsible* broker, as defined, by contract, to permit a salesperson to apply for a fictitious business name with the appropriate county and the bureau, to be identified with that ~~supervising~~ *responsible* broker's license number, and to maintain ownership of a fictitious business name, as defined. The bill would define a team name and provide, for purposes of the provisions described above, that a team name is not a fictitious business name if the name is used by two or more real estate licensees, the name includes a licensee's surname in conjunction with the term "associates," "group," or "team," and the name does not include *any term or terms* that imply *or suggest* the existence of a real estate entity independent of a ~~supervising~~ *responsible* broker. The bill would require advertising that contains a team name, including print or electronic media and "for sale" signage, to include certain identifying information *in a conspicuous manner*.

This bill would provide that a violation of the provisions described above is not a ~~misdemeanor~~, and would instead expand the commissioner's authority to temporarily suspend or permanently revoke the license of a licensee for a violation of these provisions *misdemeanor*.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 10159.5 of the Business and Professions
- 2 Code is amended to read:
- 3 10159.5. (a) Every person applying for a license under this
- 4 chapter who desires to have the license issued under a fictitious
- 5 business name shall file with his or her application a certified copy
- 6 of his or her fictitious business name statement filed with the
- 7 county clerk pursuant to Chapter 5 (commencing with Section
- 8 17900) of Part 3 of Division 7.
- 9 (1) A ~~supervising~~ *responsible* broker may, by contract, permit
- 10 a salesperson to do all of the following:
- 11 (A) File an application *on behalf of a responsible broker* with
- 12 a county clerk to obtain a fictitious business name.
- 13 (B) Deliver to the bureau an application, signed by the
- 14 ~~supervising~~ *responsible* broker, requesting the bureau's approval

1 to use a county approved fictitious business name that shall be  
2 identified with the broker's license number.

3 (C) Pay for any fees associated with filing an application with  
4 a county or the bureau to obtain or use a fictitious business name.

5 (D) Maintain ownership of a fictitious business name, as defined  
6 in paragraph ~~(4)~~ (2) of subdivision (a) of Section 10159.7, that  
7 may be used subject to the control of a ~~supervising~~ *responsible*  
8 broker.

9 (b) (1) A salesperson using a fictitious business name authorized  
10 by subdivision (a), shall use that name only as permitted by his or  
11 her ~~supervising~~ *responsible* broker.

12 (2) This section does not change a real estate broker's duties  
13 under this division to supervise a salesperson.

14 (c) A person applying to a county for a fictitious business name  
15 pursuant to subdivision (a) may file his or her application in the  
16 county or counties where the fictitious business name will be used.

17 (d) Marketing *and solicitation* materials, including *business*  
18 *cards*, print or electronic media and "for sale" signage, using a  
19 fictitious business name obtained in accordance with subdivision  
20 (a) shall include the ~~supervising~~ *responsible* broker's identity in  
21 a manner equally as prominent as the fictitious business name.

22 (e) Notwithstanding subdivision (b) of Section 10140.6,  
23 advertising, including print or electronic media and "for sale"  
24 signage, containing a fictitious business name obtained in  
25 accordance with subdivision (a) shall include the salesperson's  
26 name and license number.

27 (f) Notwithstanding Section 10185, a violation of this ~~Section~~  
28 *section* is not a ~~misdemeanor~~ and shall be enforced pursuant to  
29 ~~Section 10165~~ *misdemeanor*.

30 SEC. 2. Section 10159.6 is added to the Business and  
31 Professions Code, to read:

32 10159.6. All of the following apply to use of a team name, as  
33 defined in *paragraph (5) of* subdivision ~~(e)~~ (a) of Section 10159.7:

34 (a) Notwithstanding subdivision (b) of Section 10140.6,  
35 advertising that contains a team name, including print or electronic  
36 media and "for sale" signage, shall include the licensee's name  
37 and license number *in all advertising, and shall be displayed in a*  
38 *conspicuous manner*.

(b) The ~~supervising~~ *responsible* broker's identity shall be displayed as prominently *and conspicuously* as the team name in all advertising.

(c) The advertising material shall not contain terms that imply the existence of a real estate entity independent of the ~~supervising~~ *responsible* broker.

(d) Notwithstanding Section 10185, a violation of this ~~Section~~ *section* is not a ~~misdemeanor and shall be enforced pursuant to~~ *Section 10165 misdemeanor*.

SEC. 3. Section 10159.7 is added to the Business and Professions Code, to read:

10159.7. (a) For the purposes of this article, the following definitions shall apply:

(1) "*Broker identity*" means the name under which the broker operates or conducts business and may include a sole proprietorship or business entity name.

(2) "Fictitious business name" means a professional identity or brand name under which activity requiring a real estate license is conducted and the use of which is subject to approval by the bureau pursuant to Section 10159.5.

~~(2)~~  
(3) "Ownership of a fictitious business name" means the right to use, renew, and control the use of a fictitious business name obtained in accordance with Section 10159.5.

~~(3) "Supervising~~  
(4) "*Responsible broker*" means a ~~corporate designated officer~~ *the broker* responsible for the exercise of control ~~of corporate activities and supervision of salespersons~~ under Section 10159.2, or a licensee subject to discipline under subdivision (h) of Section 10177 for failure to supervise activity requiring a real estate license. The supervision of a salesperson required under this part is limited to regulatory compliance and consumer protection.

~~(4)~~  
(5) "Team name" means a professional identity or brand name used by a ~~salesperson or broker associate~~ *salesperson, and one or more other real estate licensees, for the provision of real estate licensed services. Notwithstanding any other law, the use of a team name does not require that a separate license be issued for that name pursuant to Section 10159.5.* A team name does not constitute

1 a fictitious business name ~~if for purposes of this part~~ all of the  
2 following apply:

3 (A) The name is used by two or more real estate licensees *who*  
4 *work together to provide licensed real estate services, or who*  
5 *represent themselves to the public as being a part of a team, group,*  
6 *or association to provide those services.*

7 (B) The name includes ~~a licensee's~~ *the surname of at least one*  
8 *of the licensee members of the team, group, or association in*  
9 *conjunction with the term "associates," "group," or "team."*

10 (C) The name does not include ~~terms~~ *any term or terms, such*  
11 *as "real estate broker," "real estate brokerage," "broker," or*  
12 *"brokerage" or any other term that would lead a member of the*  
13 *public to believe that the team is offering real estate brokerage*  
14 *services, that imply or suggest the existence of a real estate entity*  
15 *independent of a supervising responsible broker.*

16 (b) Nothing in this section changes a real estate broker's duties  
17 under this division to supervise a salesperson.

18 ~~SEC. 4. Section 10165 of the Business and Professions Code~~  
19 ~~is amended to read:~~

20 ~~10165. For a violation of any of the provisions of Section~~  
21 ~~10159.5, 10159.6, 10160, 10161.8, 10162, or 10163, or subdivision~~  
22 ~~(b) of Section 10164, the commissioner may temporarily suspend~~  
23 ~~or permanently revoke the license of the real estate licensee in~~  
24 ~~accordance with the provisions of this part relating to hearings.~~